

April 5, 2019

Mr. John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: Old Court Gardens Lot 8
Forest Buffer Variance Request and Alternatives Analysis
Tracking # 02-19-2900

Dear Mr. Canoles:

A request for a variance from Article 33, Title 3, Protection of Water Quality, Streams, Wetlands and Floodplains (i.e. Water Quality Law) was received by the Department of Environmental Protection and Sustainability (EPS) on March 7, 2019 for review and approval. An alternatives analysis for construction of a private driveway through the Forest Buffer Easement was included in the submission. This application package was revised in response to EPS staff comments of February 6, 2019 requiring further minimization of impacts to water quality and additional information. The lot, shown as lot 8 on the 1961 record plat of Old Court Gardens, is entirely forested. Since the proposed driveway and utility connections are inextricably linked to the house construction in the Forest Buffer, review of the variance and alternatives analysis is being addressed in one variance decision letter.

The revised variance application and alternatives analysis indicate that the proposed homesite development, including the driveway, would entail 9,010 square feet (sf) of permanent loss of forested Forest Buffer Easement consisting primarily of steep slopes directly draining to a Use-III tributary to Moore's Branch. As proposed, the driveway would entail 3,620 sf of these impacts predominantly on the steep slope with a significant portion of disturbance in close proximity to the forested non-tidal wetlands. The proposed driveway will enter the lot using an existing stream crossing and cul de sac. Public water will be extended in this driveway to serve the proposed house. Public sewer connection will be made out of the Forest Buffer Easement through adjacent lot 7 of Old Court Gardens.

The lot design was revised to reduce total forest buffer impacts by 15%, a reduction of 1,554 sf over the original proposal. This overall reduction was attained by shifting the location of the house closer to the boundary with Lot 9 and further from the Forest Buffer Easement and steeper slopes. The house design was also altered to include a retaining wall to allow for reduced grading onsite and minimization of impacts to the adjacent home site. Additionally, the house was redesigned such that the garage is accessed from the basement instead of the first floor to minimize both the driveway's impact on the Forest Buffer Easement and its total length.

The applicant did not analyze a no-build alternative for the subject lot that was recorded decades prior to the enactment of the Forest Buffer Law. However, we acknowledge that not building a dwelling on this lot due to the extent of the Forest Buffer Easement would result in an unreasonable hardship to the property owner.

This Department has reviewed your request and has determined that a practical difficulty exists in fully complying with Section 33-3-111 as would an unreasonable hardship, given that no dwelling could be built on the lot were the variance denied. Furthermore, impacts to water quality can be adequately minimized through the use of retaining walls, minimization of building footprint, onsite protection of the Forest Buffer Easement, and offsite buffer planting as mitigation for unavoidable impacts. It should be noted that no direct impact to streams or wetlands is proposed.

Therefore, we will grant this request in accordance with Sections 33-3-106 and 33-3-112 of the Baltimore County Code, with the following conditions:

1. Surveyed limits of the Forest Buffer Easement shall be clearly marked onsite at 75-foot intervals and significant turning points with permanent "Forest Buffer-Do Not Disturb" signs to facilitate identification of buffer limits by all involved parties. These signs, which are available from private sign contractors, shall be installed prior to building permit approval. A list of sign suppliers is enclosed.
2. Mitigation for the combined 9,010 sf of forest buffer impacts resulting from construction of the house, lawn, and driveway shall be addressed at a 2:1 ratio via the purchase of 18,020 sf of credit in a County-approved forest buffer mitigation bank. The enclosed bank authorization letter shall be signed by the bank operator to document purchase of the credit and returned to EPS prior to building permit approval.
3. Sign locations as well as mitigation calculations and a note stating how the mitigation will be addressed must be included on a Forest Buffer Protection Plan (FBPP). The plan accompanying the variance application may be repurposed as a FBPP. The FBPP mylar must be approved by EPS staff prior to building permit approval.
4. The Forest Buffer Easement and its Declaration of Protective Covenants shall be recorded in Baltimore County Land Records via the right of way plat process prior to any permit approval.
5. The following note shall appear on all subsequent plans and plats submitted for this project:
 - "A variance was granted and alternatives analysis approved on April 5, 2019 by the Baltimore County Department of Environmental Protection and Sustainability from the Law for the Protection of Water Quality, Streams, Wetlands, and Floodplains to allow impact to 9,010 square feet of Forest Buffer Easement in order to develop the lot with a single family dwelling, access drive and yard area. The Forest Buffer

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Easement and its setback shown hereon reflect the fact that this variance was granted. Conditions were placed on this variance to reduce impacts to water quality including posting of the Forest Buffer Easement onsite and purchase of 18,020 square feet of credit in a forest buffer mitigation bank.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout will require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Acting Director

DVL/lbe

Enclosures (2)

- c. Ms. Shahla Ratiner, Owner
Mr. John Mellema, John C. Mellema Surveying
Mr. Mostafa Izadi, Advanced Engineering Consultants

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I/we agree to the above conditions to bring my/our property into compliance with Article 33,
Title 3, Protection of Water Quality, Streams, Wetlands and Floodplains.

Owner's/Developer's Signature Date

Signature Date

Printed Name

Printed Name